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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 15.11.2022

+ W.P.(C) 9689/2017

UNION OF INDIA AND ANR.

..... Petitioner

versus

S N BANERJEE

..... Respondent

Advocates who appeared in this case:

For the Petitioners : Mr. B.S. Shukla, CGSC

For the Respondent: Appearance not given

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Learned counsel for the Respondent submits that despite the Tribunal directing payment of the entire arrears without interest within a period of 3 months, same was not complied with and the amount was paid belatedly.

2. Learned counsel submits that a pre-emptive order was passed by the Tribunal directing that in case arrears were not paid, even though without interest, within the stipulated period of three months, interest shall be liable to be paid by the Petitioner from the respective date when the amount became due. He submits that as per his calculation, approximately

Rs.15 Lakhs had become due and payable to the Respondent for the delayed payment of arrears.

3. Learned counsel for the Petitioner submits that amounts were paid after the order of the Tribunal, though belatedly, by about two months and for the period between the expiry of three months from the order and the date of payment, interest amounting to Rs.53,609/- has been paid.

4. Learned counsel for the Petitioner submits that the Tribunal was of the view that interest is not to be paid on the due amount, however, a warning was issued to the Petitioner to comply with the order within a period of three months, failing which interest would be liable to be paid.

5. It is not in dispute that the Petitioners have implemented the order in so far as the direction to pay the arrears is concerned and have not impugned the finding of the Tribunal that the arrears and claims of the Respondent had to be settled. In fact, the Tribunal has categorically held that it is a fit case where the Petitioners should be directed to settle all the claims of the Respondent including financial upgradation under ACP and promotion and retirement benefits of the applicant i.e. the Respondent and to pay all financial benefits. This amount was directed to be paid within a period of three months. The Tribunal, however, has held that in the facts and circumstances of the case, they were not inclined to direct the Petitioner to pay interest on the amount due and payable to the Respondent.

6. We find no reason recorded by the Tribunal as to why Respondent has been deprived of the interest even for the period when his claim

amounts were not paid by the Department. It is also an admitted position that Petitioners have not disputed the entitlement of the Respondent to the arrears and the other financial emoluments. The stand of the Petitioners is that interest is not payable. Normally, when any payment for the entitled demand of the individual is delayed or deferred, interest is a compensation given for the delay in payment of the amount.

7. Subject petition impugns an order whereby an application seeking extension of time has been dismissed by the Tribunal. We notice that the application for extension of time has been filed on 18.04.2017 that is nearly three years after the passing of the order. The time granted by the Tribunal was three months but the application has been filed for extension after nearly three years.

8. In our view, once a pre-emptive order was passed by the Tribunal, it was obligatory on the part on the Petitioners to have complied with the order or at least apply for extension within that period which admittedly in the present case was not done. Consequently, we are of the view that the Petitioner should be liable to pay interest on account of delayed payment to the Respondent.

9. We observe that the Tribunal in the initial order dated 13.11.2014 had directed payment of interest at the rate of 12% p.a. which is on a higher side. Accordingly, keeping in view the above facts and circumstances, we direct that the interest component on the delayed payments be paid to the Respondent at the GPF rate from the date the respective amount became due and payable till date of actual payment.

10. Interest component be paid within a period of three months from today after giving credit for the amount already paid.
11. Petition is accordingly disposed of in above terms.

SANJEEV SACHDEVA, J

TUSHAR RAO GEDELA, J

NOVEMBER 15, 2022/yg

